

1 Honorable Ronald B. Leighton
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON AT TACOMA

9 SEAN WILSON, individually and on behalf
10 of all other similarly situated,

11 Plaintiff,

12 v.

13 PTT, LLC, a Delaware limited liability
14 company d/b/a HIGH 5 GAMES, LLC, a
15 Delaware limited liability company,

16 Defendant.

17 NO. 3:18-cv-05275-RBL

18 **DEFENDANT HIGH 5 GAMES,
19 LLC'S SUPPLEMENTAL
20 RESPONSE TO PLAINTIFF SEAN
21 WILSON'S FIRST SET OF
22 REQUESTS FOR PRODUCTION OF
23 DOCUMENTS**

24 Defendant High 5 Games, LLC ("High 5"), by and through its attorneys of record,
25 Holland & Hart LLP hereby provides its responses and objections to Plaintiff Sean Wilson's
1 First Set of Request for Production of Documents as set forth below.

2 High 5 reserves the right to supplement and/or amend its responses to each Request
3 for Production as discovery unfolds. High 5 reserves all rights to object to the competency,
4 relevancy, materiality, and admissibility of the information disclosed pursuant to each
5 Request for Production.

6 Counsel for Plaintiff and counsel for High 5 have met and conferred. High 5 has
7 agreed to provide additional information beyond the scope of the discovery requests set forth
8 in Plaintiff Sean Wilson's First Set of Requests for Production of Documents, in the interest
9

10 **DEFENDANT HIGH 5 GAMES,
11 LLC'S SUPPLEMENTAL
12 RESPONSE TO PLAINTIFF SEAN
13 WILSON'S FIRST SET OF
14 REQUESTS FOR PRODUCTION OF
15 DOCUMENTS - 1
(3:18-cv-05275-RBL)**

16 **CARNEY BADLEY SPELLMAN, P.S.**
17 701 FIFTH AVENUE, SUITE 3600
18 SEATTLE, WA 98104
19 TEL: (206) 622-8020 FAX: (206) 467-8215

1 of avoiding the inefficiency and inconvenience to the parties of motion practice before the
2 Court.

3 **SUPPLEMENTAL RESPONSE TO REQUESTS FOR PRODUCTION**

4 **REQUEST FOR PRODUCTION NO. 1**

5 Documents sufficient to Identify, including breakdowns by App and calendar year, the
6 total number of individuals who (a) Purchased Virtual Chips from any of Your Apps during
7 the Relevant Time Period, and (b) were, at the time of Purchase, either a Washington resident
8 or physically located in Washington.

9 **SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 1**

10 High 5 objects to this request to the extent it could be construed to seek discovery
11 concerning information protected from disclosure by the attorney-client privilege, the attorney
12 work product doctrine, joint defense and/or common interest privilege, right to privacy or any
13 other applicable privilege under applicable state and federal law.

14 High 5 objects to this request to the extent it could be construed to seek discovery
15 concerning information that is confidential, proprietary, and/or containing trade secret
16 information. The parties have not yet negotiated, nor has the Court yet entered, any protective
17 order to govern discovery in this action. High 5 will not produce any such responsive
18 information until such time as the parties have stipulated to a protective order in this action.

19 High 5 objects to this request because the information it seeks is irrelevant to the issue
20 of personal jurisdiction.

21 High 5 objects to the definitions of “Document,” “Documents,” “Electronically Stored
22 Information,” “ESI,” “Media,” and “Metadata,” as well as the instructions, to the extent that
23 they purport to define the scope of or otherwise govern High 5’s discovery obligations with
24 respect to electronically stored information (“ESI”). The parties have not yet negotiated any
25 agreement, nor has the Court entered any order, regarding the scope of discovery with respect

26
**DEFENDANT HIGH 5 GAMES,
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RESPONSE TO PLAINTIFF SEAN
WILSON’S FIRST SET OF
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1 to ESI.

2 High 5 objects to Instruction No. 6 on the ground that it is inconsistent with its rights
3 and obligations under Fed. R. Civ. P. 34. High 5 will endeavor to reasonably cooperate with
4 Plaintiff in responding to Plaintiff's discovery requests and providing information on a timely
5 basis; however, High 5 reserves all rights in this regard. High 5 objects to Instruction Nos. 7
6 and 8 to the extent that they purport to require High 5 to generate documentation that does not
7 exist in the ordinary course of business in the format requested or with respect to the content
8 requested.

9 High 5 objects to this request to the extent it could be construed to seek discovery
10 concerning information that is in the possession, custody or control of a third party.

11 High 5 objects to the definition of "Relevant Time Period" as overbroad and unduly
12 burdensome. Further, the term "Washington resident" is vague and undefined.

13 High 5 objects to the production of information related to Shake the Sky as irrelevant
14 and not reasonably calculated to lead to the discovery of admissible evidence. Shake the Sky
15 is not a game Plaintiff alleges he played and is not otherwise identified in the Complaint.

16 **The information in this response should be regarded as Confidential pursuant to
17 the Stipulated Protective Order to which the parties have agreed.**

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 **REQUEST FOR PRODUCTION NO. 2**

24 Document sufficient to Identify, including breakdowns by App and calendar year, the
25 total numbers of times an individual (a) Purchased Virtual Chips from any of Your Apps

26 **DEFENDANT HIGH 5 GAMES,
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1 during the Relevant Time Period, and (b) was, at the time of Purchase, either a Washington
2 Resident or physically located in Washington.

3 **SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 2**

4 High 5 objects to this request to the extent it could be construed to seek discovery
5 concerning information protected from disclosure by the attorney-client privilege, the attorney
6 work product doctrine, joint defense and/or common interest privilege, right to privacy or any
7 other applicable privilege under applicable state and federal law.

8 High 5 objects to this request to the extent it could be construed to seek discovery
9 concerning information that is confidential, proprietary, and/or containing trade secret
10 information. The parties have not yet negotiated, nor has the Court yet entered, any protective
11 order to govern discovery in this action. High 5 will not produce any such responsive
12 information until such time as the parties have stipulated to a protective order in this action.

13 High 5 objects to this request because the information it seeks is irrelevant to the issue
14 of personal jurisdiction.

15 High 5 objects to the definitions of “Document,” “Documents,” “Electronically Stored
16 Information,” “ESI,” “Media,” and “Metadata,” as well as the instructions, to the extent that
17 they purport to define the scope of or otherwise govern High 5’s discovery obligations with
18 respect to electronically stored information (“ESI”). The parties have not yet negotiated any
19 agreement, nor has the Court entered any order, regarding the scope of discovery with respect
20 to ESI.

21 High 5 objects to Instruction No. 6 on the ground that it is inconsistent with its rights
22 and obligations under Fed. R. Civ. P. 34. High 5 will endeavor to reasonably cooperate with
23 Plaintiff in responding to Plaintiff’s discovery requests and providing information on a timely
24 basis; however, High 5 reserves all rights in this regard. High 5 objects to Instruction Nos. 7
25 and 8 to the extent that they purport to require High 5 to generate documentation that does not

26
**DEFENDANT HIGH 5 GAMES,
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1 exist in the ordinary course of business in the format requested or with respect to the content
2 requested.

3 High 5 objects to this request to the extent it could be construed to seek discovery
4 concerning information that is in the possession, custody or control of a third party.

5 High 5 objects to the definition of "Relevant Time Period" as overbroad and unduly
6 burdensome. Further, the term "Washington Resident" is vague and undefined.

7 High 5 objects to the production of information related to Shake the Sky as irrelevant
8 and not reasonably calculated to lead to the discovery of admissible evidence. Shake the Sky
9 is not a game Plaintiff alleges he played and is not otherwise identified in the Complaint.

10 **The information in this response should be regarded as Confidential pursuant to
11 the Stipulated Protective Order to which the parties have agreed.**

12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

REQUEST FOR PRODUCTION NO. 3

Documents sufficient to Identify, including breakdowns by App and calendar year, the number of days out of the three hundred and sixty-five (365) days preceding the date of Plaintiff's Complaint during which at least one individual (a) Purchased Virtual Chips from any of Your Apps, and (b) was, at the time of Purchase, either a Washington resident or physically located in Washington.

SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 3

High 5 objects to this request to the extent it could be construed to seek discovery concerning information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, joint defense and/or common interest privilege, right to privacy or any other applicable privilege under applicable state and federal law.

High 5 objects to this request to the extent it could be construed to seek discovery concerning information that is confidential, proprietary, and/or containing trade secret information. The parties have not yet negotiated, nor has the Court yet entered, any protective order to govern discovery in this action. High 5 will not produce any such responsive information until such time as the parties have stipulated to a protective order in this action.

High 5 objects to this request because the information it seeks is irrelevant to the issue of personal jurisdiction.

High 5 objects to the definitions of “Document,” “Documents,” “Electronically Stored Information,” “ESI,” “Media,” and “Metadata,” as well as the instructions, to the extent that they purport to define the scope of or otherwise govern High 5’s discovery obligations with respect to electronically stored information (“ESI”). The parties have not yet negotiated any

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1 agreement, nor has the Court entered any order, regarding the scope of discovery with respect
2 to ESI.

3 High 5 objects to Instruction No. 6 on the ground that it is inconsistent with its rights
4 and obligations under Fed. R. Civ. P. 34. High 5 will endeavor to reasonably cooperate with
5 Plaintiff in responding to Plaintiff's discovery requests and providing information on a timely
6 basis; however, High 5 reserves all rights in this regard. High 5 objects to Instruction Nos. 7
7 and 8 to the extent that they purport to require High 5 to generate documentation that does not
8 exist in the ordinary course of business in the format requested or with respect to the content
9 requested.

10 High 5 objects to this request to the extent it could be construed to seek discovery
11 concerning information that is in the possession, custody or control of a third party.

12 High 5 objects to the definition of "Relevant Time Period" as overbroad and unduly
13 burdensome. Further, the term "Washington Resident" is vague and undefined.

14 High 5 objects to the production of information related to Shake the Sky as irrelevant
15 and not reasonably calculated to lead to the discovery of admissible evidence. Shake the Sky
16 is not a game Plaintiff alleges he played and is not otherwise identified in the Complaint.

17 **The information in this response should be regarded as Confidential pursuant to
18 the Stipulated Protective Order to which the parties have agreed.**

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 DEFENDANT HIGH 5 GAMES,
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RESPONSE TO PLAINTIFF SEAN
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1	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2	[REDACTED]			
3	[REDACTED]			
4				
5	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
6	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

8 **REQUEST FOR PRODUCTION NO. 4**

9 Documents sufficient to Identify, including breakdowns by App and calendar year, the
10 amount of money You received from Washington residents and from individuals physically
11 located in Washington, Related to their Purchase of Virtual Chips from Your Apps during the
12 Relevant Time Period.

13 **SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 4**

14 High 5 objects to this request to the extent it could be construed to seek discovery
15 concerning information protected from disclosure by the attorney-client privilege, the attorney
16 work product doctrine, joint defense and/or common interest privilege, right to privacy or any
17 other applicable privilege under applicable state and federal law.

18 High 5 objects to this request to the extent it could be construed to seek discovery
19 concerning information that is confidential, proprietary, and/or containing trade secret
20 information. The parties have not yet negotiated, nor has the Court yet entered, any protective
21 order to govern discovery in this action. High 5 will not produce any such responsive
22 information until such time as the parties have stipulated to a protective order in this action.

23 High 5 objects to this request because the information it seeks is irrelevant to the issue
24 of personal jurisdiction.

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1 High 5 objects to the definitions of “Document,” “Documents,” “Electronically Stored
2 Information,” “ESI,” “Media,” and “Metadata,” as well as the instructions, to the extent that
3 they purport to define the scope of or otherwise govern High 5’s discovery obligations with
4 respect to electronically stored information (“ESI”). The parties have not yet negotiated any
5 agreement, nor has the Court entered any order, regarding the scope of discovery with respect
6 to ESI.

7 High 5 objects to Instruction No. 6 on the ground that it is inconsistent with its rights
8 and obligations under Fed. R. Civ. P. 34. High 5 will endeavor to reasonably cooperate with
9 Plaintiff in responding to Plaintiff’s discovery requests and providing information on a timely
10 basis; however, High 5 reserves all rights in this regard. High 5 objects to Instruction Nos. 7
11 and 8 to the extent that they purport to require High 5 to generate documentation that does not
12 exist in the ordinary course of business in the format requested or with respect to the content
13 requested.

14 High 5 objects to this request to the extent it could be construed to seek discovery
15 concerning information that is in the possession, custody or control of a third party.

16 High 5 objects to the definition of “Relevant Time Period” as overbroad and unduly
17 burdensome. Further, the term “Washington residents” is vague and undefined.

18 High 5 objects to the production of information related to Shake the Sky as irrelevant
19 and not reasonably calculated to lead to the discovery of admissible evidence. Shake the Sky
20 is not a game Plaintiff alleges he played and is not otherwise identified in the Complaint.

21 **The information in this response should be regarded as Confidential pursuant to
22 the Stipulated Protective Order to which the parties have agreed.**

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

26 **DEFENDANT HIGH 5 GAMES,
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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8
9 [REDACTED]
10 [REDACTED]
11
12

REQUEST FOR PRODUCTION NO. 5

13 Documents sufficient to Identify, including breakdowns by App and calendar year, the
14 cumulative number of hours that Washington residents and individuals physically located in
15 Washington spent playing any of Your Apps during the Relevant Time Period.

SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 5

17 High 5 objects to this request to the extent it could be construed to seek discovery
18 concerning information protected from disclosure by the attorney-client privilege, the attorney
19 work product doctrine, joint defense and/or common interest privilege, right to privacy or any
20 other applicable privilege under applicable state and federal law.

21 High 5 objects to this request to the extent it could be construed to seek discovery
22 concerning information that is confidential, proprietary, and/or containing trade secret
23 information. The parties have not yet negotiated, nor has the Court yet entered, any protective
24
25

26
DEFENDANT HIGH 5 GAMES,
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1 order to govern discovery in this action. High 5 will not produce any such responsive
2 information until such time as the parties have stipulated to a protective order in this action.

3 High 5 objects to this request because the information it seeks is irrelevant to the issue
4 of personal jurisdiction.

5 High 5 objects to the definitions of "Document," "Documents," "Electronically Stored
6 Information," "ESI," "Media," and "Metadata," as well as the instructions, to the extent that
7 they purport to define the scope of or otherwise govern High 5's discovery obligations with
8 respect to electronically stored information ("ESI"). The parties have not yet negotiated any
9 agreement, nor has the Court entered any order, regarding the scope of discovery with respect
10 to ESI.

11 High 5 objects to Instruction No. 6 on the ground that it is inconsistent with its rights
12 and obligations under Fed. R. Civ. P. 34. High 5 will endeavor to reasonably cooperate with
13 Plaintiff in responding to Plaintiff's discovery requests and providing information on a timely
14 basis; however, High 5 reserves all rights in this regard. High 5 objects to Instruction Nos. 7
15 and 8 to the extent that they purport to require High 5 to generate documentation that does not
16 exist in the ordinary course of business in the format requested or with respect to the content
17 requested.

18 High 5 objects to this request to the extent it could be construed to seek discovery
19 concerning information that is in the possession, custody or control of a third party.

20 High 5 objects to the definition of "Relevant Time Period" as overbroad and unduly
21 burdensome. Further, the term "Washington residents" is vague and undefined.

22 High 5 objects to the production of information related to Shake the Sky as irrelevant
23 and not reasonably calculated to lead to the discovery of admissible evidence. Shake the Sky
24 is not a game Plaintiff alleges he played and is not otherwise identified in the Complaint.

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**DEFENDANT HIGH 5 GAMES,
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REQUEST FOR PRODUCTION NO. 6

Document sufficient to Identify, including breakdowns by Ad Channel and calendar year, the total Ad Reach amongst Washington Residents and individuals physically located in Washington achieved by advertisements advertising Your Apps during the Relevant Time Period.

SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 6

High 5 objects to this request to the extent it could be construed to seek discovery concerning information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, joint defense and/or common interest privilege, right to privacy or any other applicable privilege under applicable state and federal law.

High 5 objects to this request to the extent it could be construed to seek discovery concerning information that is confidential, proprietary, and/or containing trade secret information. The parties have not yet negotiated, nor has the Court yet entered, any protective order to govern discovery in this action. High 5 will not produce any such responsive information until such time as the parties have stipulated to a protective order in this action.

High 5 objects to this request because the information it seeks is irrelevant to the issue of personal jurisdiction.

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1 High 5 objects to the definitions of “Document,” “Documents,” “Electronically Stored
2 Information,” “ESI,” “Media,” and “Metadata,” as well as the instructions, to the extent that
3 they purport to define the scope of or otherwise govern High 5’s discovery obligations with
4 respect to electronically stored information (“ESI”). The parties have not yet negotiated any
5 agreement, nor has the Court entered any order, regarding the scope of discovery with respect
6 to ESI.

7 High 5 objects to Instruction No. 6 on the ground that it is inconsistent with its rights
8 and obligations under Fed. R. Civ. P. 34. High 5 will endeavor to reasonably cooperate with
9 Plaintiff in responding to Plaintiff’s discovery requests and providing information on a timely
10 basis; however, High 5 reserves all rights in this regard. High 5 objects to Instruction Nos. 7
11 and 8 to the extent that they purport to require High 5 to generate documentation that does not
12 exist in the ordinary course of business in the format requested or with respect to the content
13 requested.

14 High 5 objects to this request to the extent it could be construed to seek discovery
15 concerning information that is in the possession, custody or control of a third party.

16 High 5 objects to the definition of “Relevant Time Period” as overbroad and unduly
17 burdensome. Further, the term “Washington Residents” is vague and undefined.

18 High 5 objects to the production of information related to Shake the Sky as irrelevant
19 and not reasonably calculated to lead to the discovery of admissible evidence. Shake the Sky
20 is not a game Plaintiff alleges he played and is not otherwise identified in the Complaint.

21 **The information in this response should be regarded as Confidential pursuant to
22 the Stipulated Protective Order to which the parties have agreed.**

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

26 **DEFENDANT HIGH 5 GAMES,
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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10

11 **REQUEST FOR PRODUCTION NO. 7**

12 Document sufficient to Identify, including breakdowns by Ad Channel and calendar
13 year, the total number of Ad Impressions served upon Washington Residents and individuals
14 physically located in Washington that were achieved by advertisements advertising Your
15 Apps during the Relevant Time Period.

16 **SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 7**

17 High 5 objects to this request to the extent it could be construed to seek discovery
18 concerning information protected from disclosure by the attorney-client privilege, the attorney
19 work product doctrine, joint defense and/or common interest privilege, right to privacy or any
20 other applicable privilege under applicable state and federal law.

21 High 5 objects to this request to the extent it could be construed to seek discovery
22 concerning information that is confidential, proprietary, and/or containing trade secret
23 information. The parties have not yet negotiated, nor has the Court yet entered, any protective
24

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26 **DEFENDANT HIGH 5 GAMES,
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1 order to govern discovery in this action. High 5 will not produce any such responsive
2 information until such time as the parties have stipulated to a protective order in this action.

3 High 5 objects to this request because the information it seeks is irrelevant to the issue
4 of personal jurisdiction.

5 High 5 objects to the definitions of "Document," "Documents," "Electronically Stored
6 Information," "ESI," "Media," and "Metadata," as well as the instructions, to the extent that
7 they purport to define the scope of or otherwise govern High 5's discovery obligations with
8 respect to electronically stored information ("ESI"). The parties have not yet negotiated any
9 agreement, nor has the Court entered any order, regarding the scope of discovery with respect
10 to ESI.

11 High 5 objects to Instruction No. 6 on the ground that it is inconsistent with its rights
12 and obligations under Fed. R. Civ. P. 34. High 5 will endeavor to reasonably cooperate with
13 Plaintiff in responding to Plaintiff's discovery requests and providing information on a timely
14 basis; however, High 5 reserves all rights in this regard. High 5 objects to Instruction Nos. 7
15 and 8 to the extent that they purport to require High 5 to generate documentation that does not
16 exist in the ordinary course of business in the format requested or with respect to the content
17 requested.

18 High 5 objects to this request to the extent it could be construed to seek discovery
19 concerning information that is in the possession, custody or control of a third party.

20 High 5 objects to the definition of "Relevant Time Period" as overbroad and unduly
21 burdensome. Further, the term "Washington Residents" is vague and undefined.

22 High 5 objects to the production of information related to Shake the Sky as irrelevant
23 and not reasonably calculated to lead to the discovery of admissible evidence. Shake the Sky
24 is not a game Plaintiff alleges he played and is not otherwise identified in the Complaint.

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1 **The information in this response should be regarded as Confidential pursuant to**
2 **the Stipulated Protective Order to which the parties have agreed.**

12	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
13	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
14	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

15 **REQUEST FOR PRODUCTION NO. 8**

16 Document sufficient to Identify, including breakdowns by Ad Channel and calendar
17 year, the total number of Ad Impressions served upon Washington Residents and Individuals
18 physically located in Washington that were achieved by advertisements that: (a) were
19 specifically Purchased for display in Washington, and (b) advertised Your Apps during the
20 Relevant Time Period.

21 **SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 8**

22 High 5 objects to this request to the extent it could be construed to seek discovery
23 concerning information protected from disclosure by the attorney-client privilege, the attorney

25
26 **DEFENDANT HIGH 5 GAMES,
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TEL: (206) 622-8020 FAX: (206) 467-8215**

1 work product doctrine, joint defense and/or common interest privilege, right to privacy or any
2 other applicable privilege under applicable state and federal law.

3 High 5 objects to this request to the extent it could be construed to seek discovery
4 concerning information that is confidential, proprietary, and/or containing trade secret
5 information. The parties have not yet negotiated, nor has the Court yet entered, any protective
6 order to govern discovery in this action. High 5 will not produce any such responsive
7 information until such time as the parties have stipulated to a protective order in this action.

8 High 5 objects to this request because the information it seeks is irrelevant to the issue
9 of personal jurisdiction.

10 High 5 objects to the definitions of "Document," "Documents," "Electronically Stored
11 Information," "ESI," "Media," and "Metadata," as well as the instructions, to the extent that
12 they purport to define the scope of or otherwise govern High 5's discovery obligations with
13 respect to electronically stored information ("ESI"). The parties have not yet negotiated any
14 agreement, nor has the Court entered any order, regarding the scope of discovery with respect
15 to ESI.

16 High 5 objects to Instruction No. 6 on the ground that it is inconsistent with its rights
17 and obligations under Fed. R. Civ. P. 34. High 5 will endeavor to reasonably cooperate with
18 Plaintiff in responding to Plaintiff's discovery requests and providing information on a timely
19 basis; however, High 5 reserves all rights in this regard. High 5 objects to Instruction Nos. 7
20 and 8 to the extent that they purport to require High 5 to generate documentation that does not
21 exist in the ordinary course of business in the format requested or with respect to the content
22 requested.

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**DEFENDANT HIGH 5 GAMES,
LLC'S SUPPLEMENTAL
RESPONSE TO PLAINTIFF SEAN
WILSON'S FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS - 17
(3:18-cv-05275-RBL)**

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SEATTLE, WA 98104
TEL: (206) 622-8020 FAX: (206) 467-8215

1 High 5 objects to this request to the extent it could be construed to seek discovery
2 concerning information that is in the possession, custody or control of a third party.

3 High 5 objects to the definition of “Relevant Time Period” as overbroad and unduly
4 burdensome. Further, the term “Washington Residents” is vague and undefined.

5 High 5 objects to the production of information related to Shake the Sky as irrelevant
6 and not reasonably calculated to lead to the discovery of admissible evidence. Shake the Sky
7 is not a game Plaintiff alleges he played and is not otherwise identified in the Complaint.

8 **The information in this response should be regarded as Confidential pursuant to
9 the Stipulated Protective Order to which the parties have agreed.**

10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

14 **REQUEST FOR PRODUCTION NO. 9**

15 Documents sufficient to Identify breakdowns by Ad Channel and calendar year, the
16 total number of Ad Impressions served nationwide by advertisements advertising Your Apps
17 during the Relevant Time Period.

18 **SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 9**

19 High 5 objects to this request to the extent it could be construed to seek discovery
20 concerning information protected from disclosure by the attorney-client privilege, the attorney
21 work product doctrine, joint defense and/or common interest privilege, right to privacy or any
22 other applicable privilege under applicable state and federal law.

23 High 5 objects to this request to the extent it could be construed to seek discovery
24 concerning information that is confidential, proprietary, and/or containing trade secret
25 information. The parties have not yet negotiated, nor has the Court yet entered, any protective

26 **DEFENDANT HIGH 5 GAMES,
LLC'S SUPPLEMENTAL
RESPONSE TO PLAINTIFF SEAN
WILSON'S FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS - 18
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1 order to govern discovery in this action. High 5 will not produce any such responsive
 2 information until such time as the parties have stipulated to a protective order in this action.

3 High 5 objects to the definitions of "Document," "Documents," "Electronically Stored
 4 Information," "ESI," "Media," and "Metadata," as well as the instructions, to the extent that
 5 they purport to define the scope of or otherwise govern High 5's discovery obligations with
 6 respect to electronically stored information ("ESI"). The parties have not yet negotiated any
 7 agreement, nor has the Court entered any order, regarding the scope of discovery with respect
 8 to ESI.

9 High 5 objects to Instruction No. 6 on the ground that it is inconsistent with its rights
 10 and obligations under Fed. R. Civ. P. 34. High 5 will endeavor to reasonably cooperate with
 11 Plaintiff in responding to Plaintiff's discovery requests and providing information on a timely
 12 basis; however, High 5 reserves all rights in this regard. High 5 objects to Instruction Nos. 7
 13 and 8 to the extent that they purport to require High 5 to generate documentation that does not
 14 exist in the ordinary course of business in the format requested or with respect to the content
 15 requested.

16 High 5 objects to this request to the extent it could be construed to seek discovery
 17 concerning information that is in the possession, custody or control of a third party. High 5
 18 objects to the definition of "Relevant Time Period" as overbroad and unduly burdensome.
 19 High 5 objects to the production of information related to Shake the Sky as irrelevant and not
 20 reasonably calculated to lead to the discovery of admissible evidence. Shake the Sky is not a
 21 game Plaintiff alleges he played and is not otherwise identified in the Complaint.

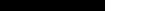
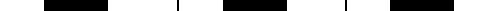
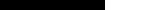
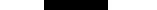
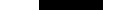
22 High 5 additionally objects to this document request on the following grounds: The
 23 scope of discovery at this juncture is limited to discovery that is relevant to the issue of
 24 whether the Court has personal jurisdiction over High 5 in connection with this action. To the
 25 extent that this document request purports to require High 5 to produce customer data or

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**DEFENDANT HIGH 5 GAMES,
 LLC'S SUPPLEMENTAL
 RESPONSE TO PLAINTIFF SEAN
 WILSON'S FIRST SET OF
 REQUESTS FOR PRODUCTION OF
 DOCUMENTS - 19
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information on a nationwide basis without regard to customer location, the request seeks information that is irrelevant to the issue of personal jurisdiction, overbroad, unduly burdensome, not proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit, and

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**DEFENDANT HIGH 5 GAMES,
LLC'S SUPPLEMENTAL
RESPONSE TO PLAINTIFF SEAN
WILSON'S FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS - 20
(3:18-cv-05275-RBL)**

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1 **REQUEST FOR PRODUCTION NO. 10**

2 Documents sufficient to Identify, including breakdowns by Ad Channel and calendar
3 year, the total amount of money spent on digital advertisements advertising Your Apps
4 nationwide during the Relevant Time Period.

5 **SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 10**

6 High 5 objects to this request to the extent it could be construed to seek discovery
7 concerning information protected from disclosure by the attorney-client privilege, the attorney
8 work product doctrine, joint defense and/or common interest privilege, right to privacy or any
9 other applicable privilege under applicable state and federal law.

10 High 5 objects to this request to the extent it could be construed to seek discovery
11 concerning information that is confidential, proprietary, and/or containing trade secret
12 information. The parties have not yet negotiated, nor has the Court yet entered, any protective
13 order to govern discovery in this action. High 5 will not produce any such responsive
14 information until such time as the parties have stipulated to a protective order in this action.

15 High 5 objects to the definitions of “Document,” “Documents,” “Electronically Stored
16 Information,” “ESI,” “Media,” and “Metadata,” as well as the instructions, to the extent that
17 they purport to define the scope of or otherwise govern High 5’s discovery obligations with
18 respect to electronically stored information (“ESI”). The parties have not yet negotiated any
19 agreement, nor has the Court entered any order, regarding the scope of discovery with respect
20 to ESI.

21 High 5 objects to Instruction No. 6 on the ground that it is inconsistent with its rights
22 and obligations under Fed. R. Civ. P. 34. High 5 will endeavor to reasonably cooperate with
23 Plaintiff in responding to Plaintiff’s discovery requests and providing information on a timely
24 basis; however, High 5 reserves all rights in this regard. High 5 objects to Instruction Nos. 7
25 and 8 to the extent that they purport to require High 5 to generate documentation that does not

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**DEFENDANT HIGH 5 GAMES,
LLC’S SUPPLEMENTAL
RESPONSE TO PLAINTIFF SEAN
WILSON’S FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS - 21
(3:18-cv-05275-RBL)**

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1 exist in the ordinary course of business in the format requested or with respect to the content
2 requested.

3 High 5 objects to this request to the extent it could be construed to seek discovery
4 concerning information that is in the possession, custody or control of a third party.

5 High 5 objects to the definition of "Relevant Time Period" as overbroad and unduly
6 burdensome.

7 High 5 objects to the production of information related to Shake the Sky as irrelevant
8 and not reasonably calculated to lead to the discovery of admissible evidence. Shake the Sky
9 is not a game Plaintiff alleges he played and is not otherwise identified in the Complaint.

10 High 5 additionally objects to this document request on the following grounds: The
11 scope of discovery at this juncture is limited to discovery that is relevant to the issue of
12 whether the Court has personal jurisdiction over High 5 in connection with this action. To the
13 extent that this document request purports to require High 5 to produce customer data or
14 information on a nationwide basis without regard to customer location, the request seeks
15 information that is irrelevant to the issue of personal jurisdiction, overbroad, unduly
16 burdensome, not proportional to the needs of the case, considering the importance of the
17 issues at stake in the action, the amount in controversy, the parties' relative access to relevant
18 information, the parties' resources, the importance of the discovery in resolving the issues,
19 and whether the burden or expense of the proposed discovery outweighs its likely benefit, and
20 High 5 objects.

21 **The information in this response should be regarded as Confidential pursuant to
22 the Stipulated Protective Order to which the parties have agreed.**

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 DEFENDANT HIGH 5 GAMES,
LLC'S SUPPLEMENTAL
RESPONSE TO PLAINTIFF SEAN
WILSON'S FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS - 22
(3:18-cv-05275-RBL)

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DATED this 10th day of September, 2018.

s/ Christopher A. Wright
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**DEFENDANT HIGH 5 GAMES,
LLC'S SUPPLEMENTAL
RESPONSE TO PLAINTIFF SEAN
WILSON'S FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS - 23
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**DEFENDANT HIGH 5 GAMES,
LLC'S SUPPLEMENTAL
RESPONSE TO PLAINTIFF SEAN
WILSON'S FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS - 24
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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of September, 2018, I served the above mentioned paper via Email and U.S. Mail to the following:

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/s/ Stacy Gust
Stacy Gust, Legal Assistant

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**DEFENDANT HIGH 5 GAMES,
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RESPONSE TO PLAINTIFF SEAN
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DOCUMENTS - 25
(3:18-cv-05275-RBL)**

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